

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.2723 of 2006

Date of decision : 12.11.2007

Karam Singh

... Appellant

Versus

Smt.Jaswinder Kaur and others

...Respondents

Present : Mr.I.S.Brar, Advocate for the appellant.

Vinod K.Sharma, J. (Oral)

This Regular Second Appeal has been filed against the judgments and decrees passed by the learned Courts below vide which suit filed by the plaintiff-respondent was ordered to be decreed by the trial Court and the appeal filed by the defendant-appellant was ordered to be dismissed.

The plaintiff –respondents brought a suit for possession on the plea that they were owners of the property in dispute whereas defendant-appellants had no right or concern with the property in dispute. It was claimed that property in dispute was taken by the defendant-appellants as tenant, however, they failed to surrender the possession thereafter. It was also the case of the plaintiff-respondents that property was situated within the municipal limits, Faridkot, therefore, the Civil Court, Faridkot had jurisdiction to entertain the present suit. The suit was contested by the defendant –appellants on the plea that they were owner in possession of the property in dispute on the basis of their having perfected title by way of adverse possession.

On appreciation of evidence, learned Courts below have been recorded a concurrent finding of fact that the plaintiff-respondents are

owners of the suit property, are therefore, entitled to possession. The plea of the defendant-appellants is that they have perfected their title by way of adverse possession. This plea was rejected by holding that when the defendant-appellants claim to have become the owners by way of adverse possession, it means that they have admitted the ownership of the plaintiff-respondents. The defendant-appellants failed to prove their possession to be hostile.

Learned counsel for the appellant contends that in the revenue record the appellant-defendants have been shown in possession as Gair Marusi tenant, therefore, the Civil Court has no jurisdiction to pass an order as it was only the revenue Court which was competent to adjudicate upon the matter. This plea of the appellant cannot be accepted. Firstly, they had denied the title of the landlord, therefore they are estopped from claiming any right in the property. Even otherwise once the property in dispute was within the municipal limits, Faridkot, it was only the Civil Court which could adjudicate upon the matter.

Consequently, no substantial question of law arises for consideration in this appeal. It is not open to the appellants to challenge the concurrent finding of fact recorded by the learned Courts below.

No merit.

Dismissed.

[Vinod K.Sharma]

Judge

12.11.2007

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